

# **Legislative Changes for 2012: Structured Settlements**

## **Information for the Self-Insured Injured Worker**

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### **What is a structured settlement?**

Effective 1/1/2012, eligible workers may enter into a structured settlement agreement to resolve future disability benefits for their industrial insurance claim. In a structured settlement, the worker is paid an amount of compensation to resolve a claim or specific claim issues. The schedule of payments is outlined in the settlement agreement.

### **Who can initiate a structured settlement for self-insured workers?**

Eligible workers or their self-insured employers may initiate discussions for a settlement agreement. The option to enter into a structured settlement agreement is only available to workers who meet the specific criteria outlined in statute. The negotiated settlement must be agreed to by all parties.

#### **Age criteria:**

A worker who is: 55 or older as of 1/1/2012  
53 or older as of 1/1/2015  
50 or older as of 1/1/2016

#### **Claim requirements:**

The order allowing the claim must be final.  
More than 180 days must have passed since the claim was received by the department or self-insured employer.

### **It's your choice**

The decision to initiate a resolution, participate in negotiations, or accept an offer of settlement is up to you.

If you are an eligible worker, you may choose to:

Continue receiving all benefits as you are entitled under worker's compensation  
Participate in vocational retraining (if eligible) or,  
Agree to a resolution of your claim by a structured settlement

### **What benefits may be included in a structured settlement?**

All benefits other than medical can be considered in the settlement.  
Examples of benefits could include monetary compensation for the loss of future earnings or permanent partial disability. An agreement could also provide for specific future medical treatment without requiring the worker to submit an application to reopen the claim.

### **What benefits may not be included in a structured settlement?**

The settlement cannot set aside or reverse the allowance of a claim.  
The settlement cannot include a monetary settlement in return for the waiver of future medical benefits.

## **Settlement approval process:**

A structured settlement agreement must be approved by the Board of Industrial Insurance Appeals (BIIA). If a worker is not represented by an attorney, an industrial appeals judge (IAJ) will review the terms of the agreement. An order will be issued if the IAJ finds the agreement is in the best interest of the worker. The order is submitted to the BIIA for final approval. Detailed information about the BIIA review and approval process is available on their website: [www.biaa.wa.gov](http://www.biaa.wa.gov).

## **FAQ's**

***The law states self-insured workers can request the Ombudsman to provide assistance. Does that mean the Ombudsman will represent me during the negotiations?***

No. We cannot represent you. We will offer technical guidance and explain the process.

We do not provide legal advice.

***Do I need an attorney?***

That decision is yours to make. If you would like to discuss your case with legal counsel, we can provide a list of attorneys.

***How are attorney fees set?***

Attorney fees for a structured settlement are limited to 15 percent of the total amount to be paid after the agreement is final. Disputes regarding fees for structured settlement agreements are decided by the BIIA.

***Can I be required to accept a settlement?***

No. If you feel coerced or harassed into accepting settlement, you can report those actions to the Department of Labor and Industries or the Ombudsman office.

***What happens if I change my mind after the agreement is approved?***

You or your self-insured employer can revoke the agreement within 30 days of the date of approval by the BIIA by providing a written notice to the other parties and the BIIA.

***What happens if I enter into an agreement and need further medical treatment after my claim is closed?***

Unless a provision for future medical treatment is addressed in your settlement, you would be required to file an application to reopen your claim. If your reopening application is approved, only medical treatment would be considered. No other benefits are payable.

***What if a party does not adhere to the provisions of the settlement agreement?***

The aggrieved party has one year from the date of the other party's failure to comply to petition the BIIA for review. Detailed information is available at [www.biaa.wa.gov](http://www.biaa.wa.gov).

***I am either receiving Social Security Disability (SSDI) or plan to apply for benefits. Will a structured settlement affect my benefits?***

Possibly. All questions regarding Social Security Disability benefits should be directed to the Social Security Administration. Their website is: [www.ssa.gov](http://www.ssa.gov)